IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 4747 of 1997

Between:

K.Srinivasula reddy S/o Venkata Subba Reddy, Occ: Clerk,
on orders of termination Gudur Group of Temples, Gudur,
R/o. Thikkavarm Village, Chillakur Mandal, Nellore District.

..... PETITIONER

AND

1 The Commissioner of Endowments, Government of Andhra Pradesh, Tilak Road, Hyderabad.
2 The Dy. Commissioner of Endowments, Guntur.
3 The Assistant Commissioner of Endowments, Nellore District.
4 The Executive Officer, Gudur Group of Temples, Gudur Nellore district.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the order of the fourth respondent dt.28-11-95 terminating the service of the petitioner as Clerk of Gudur group of temples in Nellore district without issuing any notice and the order of the 1st respondent in his proceedings Rc.No.C3/66918/ 95,dt.22-6-96 and the consequential order of the 3rd respondent in Rc.No.A2/6199/95,dt.27-8-96 directing the petitioner to express his willingness to give up the accrued benefits of arrears of salary as a condition for appointing him afresh is illegal, arbitrary, descriminatory, violative of the principles of natural justice and also Art.14 of the Constitution of India and consequently set aside the above orders and direct Respondents to reinstate the petitioner with continuity of service and with all other benefits including the arrears of pay from the date of his appointment.

Counsel for the Petitioner: MR.P.SRIDHAR REDDY

Counsel for the Respondent Nos.1to3: GP For Endowments (Not present)

Counsel for the Respondent No.4: Mr. M. Chandrasekhara Rao(Not present)

The Court made the following ORDER:

This writ petition is filed by the petitioner aggrieved by the proceedings dated 28.11.1995 issued by the fourth respondent as well as the proceedings of the second respondent working in the office of the first respondent dated 22.06.1996 and the consequential proceedings of the third respondent dated 27.08.1996.

2. According to the petitioner, he was appointed as a Clerk in Gudur Group–II Temples by the fourth respondent on a consolidated salary of Rs.600/- per month on 01.07.1992, subject to the approval by the higher authorities. According to the petitioner, in pursuance of the said appointment, he has been discharging the functions in Gudur Group –II Temples, the temples that are attached to this group are viz., Sri Kodanda Rama Swamy Temple, Varagali, Sri Muthyalamma Temple, East Kanupur, Sri Bheemavarapu Kamakshamma Pullamma Choultry, Gudur. As per the order of appointment, all the three temples have to contribute equally to the monthly remuneration of the petitioner. The petitioner also placed proceedings of the Executive Officer dated 16.07.1992, under which he was asked by the Executive Officer to receive two "Seshavastrams" sanctioned by the Executive Officer, TTD to Sri Kodanda Rama Swamy Temple, Varagalli village, Chillakur Mandal, Nellore district. It is further stated that the Executive Officer also has written a letter to the Assistant Commissioner of Endowments, Nellore seeking sanction of post of Clerk in Gudur Group II Temples, as per the communication dated 03.07.1992 by explaining the necessity. It is also the claim of the petitioner that pursuant to the said representation, the office of the first respondent has sanctioned a post of Record Assistant for the Gudur Group II Temples on a consolidated pay of Rs.600/- per month for a period of one year. Subsequently, it appears that the Executive Officer represented again on 26.06.1993 seeking sanction of the post of Clerk by first respondent. By another proceedings dated 13.08.1994, the Executive Officer has also communicated to the Assistant Commissioner of Endowments, the third respondent, that as there is no order of the Department, no salary has been paid to the petitioner and therefore sought for necessary

sanction to pay the salary. Subsequently, however, the fourth respondent– Executive Officer passed the impugned order of termination dated 28.11.1995 without issuing any notice only on the premise that he has been instructed to that effect by the Office of the Commissioner. Subsequently on the representations made by the petitioner to the Office of the Commissioner, the Office of the Commissioner came to know the real facts and issued proceedings dated 22.12.1995 proposing action against the Executive Officer for submitting false facts with respect to the appointment and working of the petitioner in Gudur Group II Temples. Subsequently according to the petitioner, the first respondent issued proceedings directing the petitioner to give up his claim for the salary for the period for which he had worked earlier so as to seek fresh appointment. Pursuant to the said order dated 22.06.1996, the third respondent also issued proceedings dated 27.08.1996. Aggrieved by that the petitioner has come up with the present writ petition.

3. It is the grievance of the petitioner that he was appointed by the fourth respondent – Executive Officer as a Clerk of the Gudur Group II Temples and he has been working since then. It is contended that though the Office of the first respondent has sanctioned a post of Record Assistant on a consolidated pay of Rs.600/-, the fourth respondent did not pay the salary to the petitioner at any point of time and on the other hand misled the office of the first respondent in getting instructions to terminate the services of the petitioner by cancelling the appointment order itself.

4. The learned counsel for the petitioner contended that the proceedings of the second and third respondents dated 22.06.1996 and 27.08.1996 clearly show that the respondents sought for an undertaking from the petitioner that he should give up or relinquish past salary, for the period for which he had worked so as to get a fresh appointment in the Gudur Group II Temples. The learned counsel also contended that the said action of the respondent is clearly illegal and therefore sought for setting aside the said proceedings.

5. It is only the Executive Officer, who filed counter-affidavit to support the action. On behalf of the other respondents, no counter-affidavit is filed. None appeared at the time of hearing for any of the respondents. Therefore, the matter is heard and is being disposed of on merits.

6. It is not in dispute that the proceedings of the fourth respondent dated 01.07.1992 clearly shows that the petitioner was appointed as a Clerk of Gudur Group II Temples on a consolidated pay of Rs.600/- per month. Thereafter, the proceedings also shows that the petitioner had assumed charge and was discharging the functions as is evident from the proceedings of the fourth respondent dated 06.07.1992 under which the petitioner was authorized to receive “Seshavastrams” sanctioned by the TTD to one of the Temples, to which the petitioner was appointed. Subsequently, the proceedings also shows that the Executive Officer has sought for sanction as well as approval of the authorities for the post in which the petitioner was appointed. The proceedings also shows that the first respondent Office has sanctioned a post of Record Assistant on a consolidated pay of Rs.600/-, in spite of which, the petitioner was not paid any salary by the fourth respondent. On the other hand, finally on an alleged instruction of the fourth respondent, the impugned order of termination was passed by the fourth respondent on 28.11.1995. Thereafter, the petitioner made representations to the other respondents including the first respondent and in fact on coming to know of the real facts, the first respondent has even issued proceedings proposing to take action against the Executive Officer for placing false facts before the first respondent’s Office. But, in any case, the first respondent or the other respondents 2 and 3 also did not pass any orders to set right the illegalities committed by the fourth respondent and on the other hand issued proceedings dated 22.12.1995 and 27.08.1996 seeking consent of the petitioner to relinquish his right for the remuneration for the period he worked in Gudur Group II Temples. The said action is clearly illegal. When the first respondent’s Office has sanctioned the post of record Assistant on a consolidated pay of Rs.600/-, the said remuneration has to be paid to the petitioner and further it is evident from the material, the post of Record Assistant or Clerk is imminently necessary to attend to the necessary work of those temples. Therefore, the first respondent ought to have passed orders settling the things correctly. But the first respondent did not pass any orders except issuing proceedings seeking consent of the petitioner to forego the remuneration for which he is entitled for the period he worked.

7. Under the above circumstances, the impugned order of termination passed by the fourth respondent as well as the proceedings of the respondents 1 and 2

issued seeking consent of the petitioner are set aside and the respondents are directed to continue the petitioner in service by paying the salary to which the petitioner is entitled for the period he had already worked. Further, as is evident from the proceedings of the respondents 2 and 3 dated 22.06.1996 and 27.08.1996, they are proposing to make appointment. The respondents are, therefore, directed to consider the case of the petitioner for his appointment.

8. The writ petition is accordingly disposed of with the above directions. No costs.

_____

S. Ananda Reddy, J

Date: 20.09.2004

va

To

1 The Commissioner of Endowments, Government of Andhra Pradesh, Tilak Road, Hyderabad.
2 The Deputy Commissioner of Endowments, Guntur.
3 The Assistant Commissioner of Endowments, Nellore District.
4 The Executive Officer, Gudur Group of Temples, Gudur Nellore district.

5 Two CCs to G.P. for Endowments, High Court of A.P. Buildings, Hyderabad (OUT)
6 Two CD Copies